

From: [Byers, Bonnie](#)
To: [Vaughn, Stephen P. EOP/USTR](#)
Subject: RE: Test
Date: Monday, January 30, 2017 1:14:24 PM

Perfect, thank you.

From: Vaughn, Stephen P. EOP/USTR [<mailto:Stephen.P.Vaughn@ustr.eop.gov>]
Sent: Monday, January 30, 2017 1:13 PM
To: Byers, Bonnie
Subject: RE: Test

Let's plan to meet Wednesday at 4. If anything comes up on my end, I will let you know.

From: Byers, Bonnie [[mailto:\[REDACTED\]@kslaw.com](mailto:[REDACTED]@kslaw.com)]
Sent: Monday, January 30, 2017 1:10 PM
To: Vaughn, Stephen P. EOP/USTR <[\[REDACTED\]@ustr.eop.gov](mailto:[REDACTED]@ustr.eop.gov)>
Subject: RE: Test

Dear Stephen,

I would like to bring Barry Zekelman by to meet you at 3:30 or 4 pm on Wednesday, February 1. Hope this will be doable. I know how busy you are and we will not take much time. Thank you in advance for your consideration.

Kind regards,

Bonnie

Bonnie Blythe Byers
Senior International Trade Consultant
King & Spalding
1700 Pennsylvania Ave., NW
Washington, DC 20006
Tel. [REDACTED]

From: Vaughn, Stephen P. EOP/USTR [[mailto:\[REDACTED\]@ustr.eop.gov](mailto:[REDACTED]@ustr.eop.gov)]
Sent: Monday, January 30, 2017 12:50 PM
To: Byers, Bonnie
Subject: Test

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From: [Byers, Bonnie](#)
To: [Vaughn, Stephen P. EOP/USTR](#)
Subject: Re: Test
Date: Wednesday, February 1, 2017 9:51:52 AM

Just confirming our 4 pm meeting today. B.

Bonnie Blythe Byers
Senior Trade Consultant
King & Spalding
(202) 626-5507

On Jan 30, 2017, at 1:13 PM, Vaughn, Stephen P. EOP/USTR
<Stephen.P.Vaughn@ustr.eop.gov<[mailto:\[REDACTED\]@ustr.eop.gov](mailto:[REDACTED]@ustr.eop.gov)>> wrote:

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From: Byers, Bonnie [[mailto:\[REDACTED\]@kslaw.com](mailto:[REDACTED]@kslaw.com)]
Sent: Monday, January 30, 2017 1:10 PM
To: Vaughn, Stephen P. EOP/USTR <Stephen.P.Vaughn@ustr.eop.gov<[mailto:\[REDACTED\]@ustr.eop.gov](mailto:[REDACTED]@ustr.eop.gov)>>
Subject: RE: Test

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Bonnie

Bonnie Blythe Byers
Senior International Trade Consultant
King & Spalding
1700 Pennsylvania Ave., NW
Washington, DC 20006
[REDACTED]

From: Vaughn, Stephen P. EOP/USTR [<mailto:Stephen.P.Vaughn@ustr.eop.gov>]
Sent: Monday, January 30, 2017 12:50 PM
To: Byers, Bonnie
Subject: Test

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From: [Byers, Bonnie](#)
To: [Vaughn, Stephen P. EOP/USTR](#)
Subject: Do you have a few minutes to talk today?
Date: Wednesday, February 8, 2017 11:41:21 AM

Bonnie Blythe Byers
Senior International Trade Consultant
King & Spalding
1700 Pennsylvania Ave., NW
Washington, DC 20006
[REDACTED]

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February 1, 2017

Wednesday

February 2017

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

March 2017

Su	Mo	Tu	We	Th	Fr	Sa
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5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

	WEDNESDAY
	1
7 ^{AM}	
8	
9	
10	Check-In with OGC Staff; 223a; Vaughn, Stephen P. EOP/USTR
11	Briefing on GAO Investigation on Enforcement; 223a; Vaughn, Stephen P. EOP/USTR
12 ^{PM}	
1	Press Interview Emily Davis COS Office Griffin, Garrison P. EOP/USTR
2	
3	
4	Meet with (b) (6); 211; Vaughn, Stephen P. EOP/USTR Meet on NME Status; 211; Vaughn, Stephen P. EOP/USTR
5	Check-In; 221; Pagan, Maria L. EOP/USTR
6	

WINDER

FEBRUARY 2017

DEPARTURE

1100

11:30a
12:20p

2:42pm

2:40 AM

3:20 pm

3

GSA 139 (REV. 12/2006)

Executive Branch Personnel

Public Financial Disclosure Report (OGE Form 278e)

Filer's Information

Vaughn, Stephen P

General Counsel, Office of the U.S. Trade Representative

Date of Appointment: 01/21/2017

Other Federal Government Positions Held During the Preceding 12 Months:

None

Electronic Signature - I certify that the statements I have made in this form are true, complete and correct to the best of my knowledge.

/s/ Vaughn, Stephen P [electronically signed on 02/23/2017 by Vaughn, Stephen P in Integrity.gov]

Agency Ethics Official's Opinion - On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments below).

/s/ Kaye, Janice A, Certifying Official [electronically signed on 02/27/2017 by Kaye, Janice A in Integrity.gov]

Other review conducted by

U.S. Office of Government Ethics Certification

Data Revised 02/27/2017

1. Filer's Positions Held Outside United States Government

#	ORGANIZATION NAME	CITY, STATE	ORGANIZATION TYPE	POSITION HELD	FROM	TO
1	King & Spalding LLP	Washington, District of Columbia	Law Firm	Partner	1/2016	1/2017
2	Skadden, Arps, Slate, Meagher, and Flom LLP	Washington, District of Columbia	Law Firm	Counsel	10/1992	12/2015
3	Georgetown University Law Center	Washington, District of Columbia	University/College	Adjunct Professor	9/2013	12/2016
4	Radio Ingraham	Bethesda, Maryland	Corporation	Consultant	1/2016	12/2016

2. Filer's Employment Assets & Income and Retirement Accounts

#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
1	King & Spalding LLP (law firm)	N/A		Salary/Bonus	\$753,352
2	Skadden, Arps, Slate, Meagher, and Flom LLP (law firm)	N/A		Salary/Bonus	\$751,483
3	Georgetown University Law Center	N/A		Salary	\$1,500
4	Radio Ingraham (Communications)	N/A		Consulting Fees	\$2,000
5	Northwestern Mutual Individual Retirement Account	Yes	\$1,001 - \$15,000		\$201 - \$1,000
5.1	Dreyfus Insurance Deposit Program I (cash)	N/A	None (or less than \$1,001)		None (or less than \$201)
5.2	Russell LifePoints Growth Strategy Fund Class A (RALAX)	N/A	\$1,001 - \$15,000		None (or less than \$201)
6	Skadden 401k	Yes			None (or less than \$201)

#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
6.1	Vanguard Total Bond Market Index Fund (VBMFX)	Yes	\$15,001 - \$50,000		None (or less than \$201)
6.2	AMG TimesSquare Small Cap Growth Fund I (TSCIX)	Yes	\$100,001 - \$250,000		None (or less than \$201)
6.3	T. Rowe Price Growth Stock Trust A	Yes	\$50,001 - \$100,000		None (or less than \$201)
6.4	Vanguard Institutional Index Fund Institutional Plus Shares (VIIIX)	Yes	\$250,001 - \$500,000		None (or less than \$201)
6.5	American Funds EuroPacific Growth Fund Class R-6 (RERGX)	Yes	\$50,001 - \$100,000		None (or less than \$201)
7	King & Spalding 401k	Yes			None (or less than \$201)
7.1	Schwab Moderate Strategic Portfolio	Yes	\$15,001 - \$50,000		None (or less than \$201)

3. Filer's Employment Agreements and Arrangements

#	EMPLOYER OR PARTY	CITY, STATE	STATUS AND TERMS	DATE
1	Skadden, Arps, Slate, Meagher, & Flom LLP	New York City, New York	I will continue to participate in this defined contribution plan, but the plan sponsor no longer makes contributions.	10/1992
2	King & Spalding LLP	Atlanta, Georgia	I will continue to participate in this defined contribution plan, but the plan sponsor no longer makes contributions.	1/2016

4. Filer's Sources of Compensation Exceeding \$5,000 in a Year

#	SOURCE NAME	CITY, STATE	BRIEF DESCRIPTION OF DUTIES
1	King & Spalding LLP	Washington, District of Columbia	

#	SOURCE NAME	CITY, STATE	BRIEF DESCRIPTION OF DUTIES
2	Skadden, Arps, Slate, Meagher, and Flom LLP	Washington, District of Columbia	
3	United States Steel Corporation	Pittsburgh, Pennsylvania	Provided legal services
4	Tensar International Corporation	Alpharetta, Georgia	Provided legal services
5	AK Steel Corporation	West Chester Township, Ohio	Provided legal services
6	Novelis, Inc.	Atlanta, Georgia	Provided legal services
7	Zekleman Industries	Chicago, Illinois	Provided legal services
8	American Furniture Manufacturers for Legal Trade	Various	Provided legal services
9	Committee for Fair Trade Ammonium Sulfate	Various	Provided legal services

5. Spouse's Employment Assets & Income and Retirement Accounts

None

6. Other Assets and Income

#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
1	Dreyfus Insurance Deposit Program I	N/A	\$1,001 - \$15,000		None (or less than \$201)
2	Russell LifePoints Equity Growth Strategy Fund Class A (REAAX)	Yes	\$250,001 - \$500,000		None (or less than \$201)
3	Russell LifePoints Growth Strategy Fund Class A (RALAX)	Yes	\$100,001 - \$250,000		None (or less than \$201)

#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
4	Russell LifePoints Balanced Strategy Fund Class A (RBLAX)	Yes	\$250,001 - \$500,000		None (or less than \$201)
5	U.S. Bank savings account	N/A	\$1,001 - \$15,000	Interest	None (or less than \$201)
6	U.S. Bank checking and savings accounts	N/A	\$100,001 - \$250,000	Interest	None (or less than \$201)
7	U.S. Bank checking account and Certificates of Deposit	N/A	\$100,001 - \$250,000	Interest	None (or less than \$201)
8	Unimproved land in Kentucky	N/A	\$15,001 - \$50,000		None (or less than \$201)
9	Northwestern Mutual Whole Life Insurance	N/A	\$15,001 - \$50,000		None (or less than \$201)
10	Virginia 529 Accounts	Yes			None (or less than \$201)
10.1	American Funds American Mutual Fund (CMLAX)	Yes	\$1,001 - \$15,000		None (or less than \$201)
10.2	American Funds Capital Income Builder (CIRAX)	Yes	\$1,001 - \$15,000		None (or less than \$201)
10.3	American Funds Capital World Bond Fund (CCWAX)	Yes	\$1,001 - \$15,000		None (or less than \$201)
10.4	American Funds Intermediate Bond Fund of America (CBOAX)	Yes	\$15,001 - \$50,000		None (or less than \$201)
10.5	American Funds Short-Term Bond Fund of America (CAAFX)	Yes	\$15,001 - \$50,000		None (or less than \$201)

7. Transactions

(N/A) - Not required for this type of report

8. Liabilities

None

9. Gifts and Travel Reimbursements

(N/A) - Not required for this type of report

Endnotes

NOTE: All substantive legal interpretations in this advisory concerning Pledge paragraph 2 (E.O. 13490) and the terms used in Pledge paragraph 2 are applicable to Executive Order 13770, sec. 1, par. 6. All substantive legal interpretations pertaining to waivers of the Ethics Pledge are not applicable to Executive Order 13770, sec. 3. See LA-17-02 and LA-17-03.



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

March 26, 2009
DO-09-011

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Robert I. Cusick
Director

SUBJECT: Ethics Pledge: Revolving Door Ban--All Appointees Entering Government

Executive Order 13490 requires any covered “appointee” to sign an Ethics Pledge that includes several commitments. 74 Fed. Reg. 4673 (January 26, 2009). OGE Memorandum DO-09-003 explains the definition of appointee, describes the commitments included in the Pledge, and provides a Pledge Form to be used for appointees.¹ The purpose of the present memorandum is to advise ethics officials on how to implement paragraph 2 of the Pledge, “Revolving Door Ban--All Appointees Entering Government.”

Paragraph 2 of the Pledge requires an appointee to commit that he or she will not, for a period of two years following appointment, participate in any particular matter involving specific parties that is directly and substantially related to his or her former employer or former clients, including regulations and contracts. Exec. Order No. 13490 sec. 1(2). To help agencies implement this requirement, OGE is providing the following explanation of the phrases that comprise paragraph 2 of the Pledge and of how paragraph 2 interacts with existing impartiality regulations.

Understanding the Meaning of the Terms that Comprise Paragraph 2 of the Pledge

“Particular matter involving specific parties”

In order to determine whether an appointee’s activities concern any particular matters involving specific parties, ethics officials must follow the definition of that phrase found in section 2(h) of the Executive Order. That definition incorporates the longstanding interpretation of particular matter involving specific parties reflected in 5 C.F.R. § 2641.201(h). However, it also expands the scope of the term to include any meeting or other communication with a former employer or former client relating to the performance of the appointee’s official duties, unless

¹ <https://www.oge.gov/Web/oge.nsf/Resources/DO-09-003:+Executive+Order+13490,+Ethics+Pledge>.

the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. The purpose of this expansion of the traditional definition is to address concerns that former employers and clients may appear to have privileged access, which they may exploit to influence an appointee out of the public view.²

The expanded party matter definition has a two-part exception for communications with an appointee's former employer or client, if the communication is: (1) about a particular matter of general applicability and (2) is made at a meeting or other event at which participation is open to all interested parties. Although the exception refers to particular matters of general applicability, it also is intended to cover communications and meetings regarding policies that do not constitute particular matters. An appointee may participate in communications and meetings with a former employer or client about these particular or non-particular matters if the meeting or event is "open to all interested parties." Exec. Order No. 13490 sec. 2(h). Because meeting spaces are typically limited, and time and other practical considerations also may constrain the size of meetings, common sense demands that reasonable limits be placed on what it means to be "open to all interested parties." Such meetings do not have to be open to every comer, but should include a multiplicity of parties. For example, if an agency is holding a meeting with five or more stakeholders regarding a given policy or piece of legislation, an appointee could attend such a meeting even if one of the stakeholders is a former employer or former client; such circumstances do not raise the concerns about special access at which the Executive Order is directed. Additionally, the Pledge is not intended to preclude an appointee from participating in rulemaking under section 553 of the Administrative Procedure Act simply because a former employer or client may have submitted written comments in response to a public notice of proposed rulemaking.³ In any event, agency ethics officials will have to exercise judgment in determining whether a specific forum qualifies as a meeting or other event that is "open to all interested parties," and OGE is prepared to assist with this analysis.

"Particular matter involving specific parties...including regulations"

Because regulations often are cited as examples of particular matters that do not involve specific parties, OGE wants to emphasize that the phrase is not intended to suggest that all rulemakings are covered. Rather, the phrase is intended to serve as a reminder that regulations sometimes may be particular matters involving specific parties, although in rare circumstances. As OGE has observed in connection with 18 U.S.C. § 207, certain rulemakings may be so focused on the rights of specifically identified parties as to be considered a particular matter

² Note, however, that the expanded definition of party matter is not intended to interfere with the ability of appointees to consult with experts at educational institutions and "think tanks" on general policy matters, at least where those entities do not have a financial interest, as opposed to an academic or ideological interest. See Office of Legal Counsel Memorandum, "Financial Interests of Nonprofit Organizations," January 11, 2006 (distinguishing between financial interests and advocacy interests of nonprofits), <http://www.justice.gov/sites/default/files/olc/opinions/attachments/2015/05/29/op-olc-v030-p0064.pdf>; cf. 5 C.F.R. § 2635.502(b)(1)(v)(Note)(OGE impartiality rule does not require recusal because of employee's political, religious or moral views).

³ For other reasons discussed below, however, rulemaking sometimes may constitute a particular matter involving specific parties, albeit rarely

involving specific parties.⁴ Such rulemakings likewise are covered by paragraph 2.

“Directly and substantially related to”

The phrase “directly and substantially related to,” as defined in section 2(k) of the Executive Order, means only that the former employer or client is a party or represents a party to the matter. Ethics officials should be familiar with this concept from 5 C.F.R. § 2635.502(a).

“Former employer or former client”

In order to determine who qualifies as an appointee’s former employer or former client, ethics officials must follow the definitions of each phrase found in section 2(i) and 2(j), respectively, of the Executive Order. In effect, the Executive Order splits the treatment of former employer found in the impartiality regulations into two discrete categories, “former employer” and “former client,” and removes contractor from the definition of either term. See 5 C.F.R. §§ 2635.502(b)(1)(iv), 2635.503(b)(2).

Former Employer

For purposes of the Pledge, a former employer is any person for whom the appointee has, within the two years prior to the date of his or her appointment, served as an employee, officer, director, trustee, or general partner, unless that person is an agency or entity of the Federal Government, a state or local government, the District of Columbia, a Native American tribe, or any United States territory or possession. Exec. Order No. 13490, sec. 2(i). While the terms employee, officer, director, trustee, or general partner generally follow existing ethics laws and guidance, OGE has received questions about the scope of the exclusion for government entities from the definition of former employer, specifically with regard to public colleges and universities. The exclusion for state or local government entities does extend to a state or local college or university.⁵

OGE also has received several questions about whether the definition of former employer includes nonprofit organizations. Consistent with the interpretation of similar terms in other ethics rules and statutes, the definition of former employer in the Executive Order covers

⁴ See, e.g., 73 Fed. Reg. 36168, 36176 (June 25, 2008); see also OGE Informal Advisory Letter 96 x 7, n.1.

⁵ See OGE Informal Advisory Opinion 93 x 29 n.1 where OGE held that for purposes of applying the supplementation of salary restrictions in 18 U.S.C. § 209, the exception for payments from the treasury of any state, county, or municipality included a state university. OGE cautions, however, that the exclusion for state and local entities may not extend to all entities affiliated with a state or local college or university. OGE notes that some colleges and universities may create mixed public/private entities in partnership with commercial enterprises. Such entities should not automatically be considered as falling within the exclusion, but rather should be examined on a case-by-case basis to determine whether they should be viewed as instrumentalities of state or local government for the purposes of the Executive Order.

nonprofit organizations.⁶ Moreover, it includes nonprofit organizations in which an appointee served without compensation, provided of course that the appointee actually served as an employee, officer, director, trustee, or general partner of the organization. Thus, for example, the recusal obligations of Pledge paragraph 2 would apply to an appointee who had served without pay on the board of directors or trustees of a charity, provided that the position involved the fiduciary duties normally associated with directors and trustees under state nonprofit organization law. This does not include, however, purely honorific positions, such as "honorary trustee" of a nonprofit organization. It also does not include unpaid positions as a member of an advisory board or committee of a nonprofit organization, unless the position involved fiduciary duties of the kind exercised by officers, directors or trustees, or involved sufficient supervision by the organization to create a common law employee-employer relationship (which is not typical, in OGE's experience).

Former Client

For purposes of the Pledge, a former client means any person for whom the appointee served personally as an agent, attorney, or consultant within two years prior to date of appointment. Exec. Order No. 13490 sec. 2(j). A former client does not include a client of the appointee's former employer to whom the appointee did not personally provide services. Therefore, although an appointee's former law firm provided legal services to a corporation, the corporation is not a former client of the appointee for purposes of the Pledge if the appointee did not personally render legal services to the corporation. Moreover, based on discussions with the White House Counsel's office, OGE has determined that the definition of former client is intended to exclude the same governmental entities as those excluded from the definition of former employer. Thus, for example, an appointee who had provided legal services to the Department of Energy would not be prohibited from participating personally in particular matters in which the Department is a party.

In addition, the term former client includes nonprofit organizations. However, a former client relationship is not created by service to a nonprofit organization in which an appointee participated solely as an unpaid advisory committee or advisory board member with no fiduciary duties. Although a former client includes any person whom the appointee served as a "consultant," OGE has not construed the term consultant, as used in analogous provisions of the Ethics in Government Act and the Standards of Ethical Conduct, to include unpaid, non-fiduciary advisory committee members of a nonprofit organization. *See* 5 U.S.C. app. § 102(a)(6)(A)(disclosure of consultant positions); 5 C.F.R. § 2635.502(b)(1)(iv)(covered relationship as former consultant). Likewise, former client does not include a nonprofit organization in which an appointee served solely in an honorific capacity.

⁶ For similar reasons, Federally-funded research and development centers (FFRDCs), whether nonprofit or for profit, are intended to be included in the definitions of former employer and former client for purposes of paragraph 2 of the Pledge.

The definition of former client specifically excludes “instances where the service provided was limited to a speech or similar appearance.” Exec. Order No. 13490, sec. 2(j). In addition to excluding all activities that consist merely of speaking engagements, this provision is intended to exclude other kinds of discrete, short-term engagements, including certain de minimis consulting activities. Essentially, the Pledge is not intended to require a two-year recusal based on activities so insubstantial that they are not likely to engender the kind of lingering affinity and mixed loyalties at which the Executive Order is directed. The exclusion for speaking and similar engagements was added to emphasize that the provision focuses on services that involved a significant working relationship with a former client. Therefore, the exclusion is not limited to speeches and speech-like activities (such as serving on a seminar panel or discussion forum), but includes other activities that similarly involve a brief, one-time service with little or no ongoing attachment or obligation. In order to determine whether any services were de minimis, ethics officials will need to consider the totality of the circumstances, including the following factors:

- the amount of time devoted;
- the presence or absence of an ongoing contractual relationship or agreement;
- the nature of the services (e.g., whether they involved any representational services or other fiduciary duties); and
- the nature of compensation (e.g., one-time fee versus a retainer fee).

For example, the recusal obligation of Pledge paragraph 2 would not apply to an appointee who had provided consulting services on a technical or scientific issue, for three hours on a single day, pursuant to an informal oral agreement, with no representational or fiduciary relationship.⁷ On the other hand, an appointee who had an ongoing contractual relationship to provide similar services as needed over the course of several months would be covered. In closer cases, OGE believes ethics officials should err on the side of coverage, with the understanding that waivers, under section 3 of the Order, remain an option in appropriate cases.

The Relationship of Paragraph 2 of the Pledge to the Existing Impartiality Regulations

Paragraph 2 of the Pledge is not merely an extension of the existing impartiality requirements of subpart E of the Standards of Ethical Conduct, although in some circumstances the restrictions of the Pledge and the existing impartiality restrictions could align. The effect of any overlap is that all of the relevant restrictions apply to the appointee and should be acknowledged in the appointee’s ethics agreement and considered when granting a waiver or authorization under either set of restrictions.

⁷ Note that appointees still will have a covered relationship for one year after they provided any consulting services, under the OGE impartiality rule, 5 C.F.R. § 2635.502(b)(1)(iv). Therefore, the OGE rule may require an appointee to recuse from certain matters (or obtain an authorization, as appropriate), even if the Pledge does not extend the recusal for an additional year. Indeed, the presence of the OGE rule as a “fall-back” was a factor in the decision to exclude certain de minimis consulting services from the Pledge in the first place.

Paragraph 2 of the Pledge and Impartiality Regulations Differ and Overlap

An appointee's commitments under paragraph 2 of the Pledge both overlap and diverge from the existing impartiality regulations in important ways depending upon the facts of each appointee's circumstances. The following highlights some of the key areas in which paragraph 2 of the Pledge and the existing impartiality restrictions differ. In addition, OGE has developed a chart as a quick reference tool to identify the key differences among the existing impartiality regulations and paragraph 2 of the Pledge. *See Attachment 1.*

Paragraph 2 of the Pledge is at once more expansive and more limited than the existing impartiality restrictions found at 5 C.F.R. §§ 2635.502, 2635.503. For example, an appointee is subject to impartiality restrictions based on his covered relationships with a much broader array of persons⁸ than to the restrictions of paragraph 2, which are limited to the appointee's former employer and former clients. Thus, for instance, if the appointee has served as a contractor, but not in any of the roles described in the definitions of former employer or former client in the Executive Order, then the appointee may have recusal obligations under 5 C.F.R. §§ 2635.502 and 2635.503, but not under Pledge paragraph 2. Conversely, Pledge paragraph 2 is more expansive than the definition of covered relationship in section 2635.502 because the Pledge provision looks back two years to define a former employer or former client and it imposes a two-year recusal obligation after appointment, both of which are considerably broader than the one-year focus of section 2635.502(b)(1)(iv). Pledge paragraph 2 also is more expansive in that the recusal obligation may apply to certain communications and meetings that do not constitute particular matters involving specific parties as that phrase is used in sections 2635.502 and 2635.503.⁹

On the subject of recusal periods alone, ethics officials will need to be especially attentive to the possible variations, as it may be possible for as many as three periods to overlap. For example, an appointee could have: a one-year recusal, under 5 C.F.R. § 2635.502, from the date she last served a former employer; a two-year recusal, under section 2635.503, from the date she received an extraordinary payment from that same former employer; and a two-year recusal with respect to that former employer, under Pledge paragraph 2, from the date of her appointment.

Specific Recusals under Paragraph 2 of the Pledge are Not Required to be Memorialized in an Appointee's Ethics Agreement.

Executive Order 13490 does not require recusals under paragraph 2 of the Pledge to be addressed specifically in an appointee's ethics agreement, unlike recusals under paragraph 3 of

⁸ See definition of "covered relationship" at 5 C.F.R. § 2635.502(b)(1).

⁹ Compare Exec. Order No. 13490, sec. 2(h)(definition broader than post-employment regulation); with 5 C.F.R. § 2635.502(b)(3)(defining particular matter involving specific parties solely by reference to post-employment regulations).

the Pledge. *See* Exec. Order No. 13490 sec. 4(a).¹⁰ However, if an appointee will have a written ethics agreement addressing other commitments, OGE requires that the following language be inserted in that written ethics agreement in order to ensure that the appointee is aware of her commitments and restrictions under both her ethics agreement and the Pledge.

Finally, I understand that as an appointee I am required to sign the Ethics Pledge (Exec. Order No. 13490) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this and any other ethics agreement.

Written ethics agreements will continue to address section 2635.502 and 2635.503 issues separately using the model provisions from OGE's "Guide to Drafting Ethics Agreements for PAS Nominees." Thus, regardless of paragraph 2 of the Pledge, the one-year "covered relationship" under the OGE impartiality rule remains in effect and may require an appointee to recuse from certain matters, even if the Pledge does not extend the recusal for an additional year. *See* 5 C.F.R. § 2635.502(b)(1)(iv).

The Pledge and Impartiality Regulations Waiver Provisions

Designated Agency Ethics Officials have been designated to exercise the waiver authority for the Ethics Pledge, under section 3 of Executive Order 13490, in addition to their existing role in the issuance of impartiality waivers and authorizations. DAEOgram DO-09-008; 5 C.F.R. §§ 2635.502(d), 2635.503(c). Generally, it is expected that waivers of the various requirements of the Pledge will be granted sparingly. *See* OGE DAEOgram DO-09-008. Although paragraph 2 clearly adds new limits on the revolving door, those limits are not intended to bar the use of qualified appointees who have relevant private sector experience in their fields of expertise. Therefore, at least where the lobbyist restrictions of paragraph 3 of the Pledge are not implicated, OGE expects that DAEOs will exercise the waiver authority for paragraph 2 in a manner that reasonably meets the needs of their agencies. In this regard, DAEOs already have significant experience in determining whether authorizations under 5 C.F.R. § 2635.502(d) are justified, and DAEOs should use similar good judgment in decisions about whether to waive paragraph 2 of the Pledge. Of course, any such waiver decisions still must be made in consultation with the Counsel to the President. Exec. Order No. 13490, sec. 3. Additional details on the standards for issuing a waiver of provisions of Pledge paragraph 2, as well as on issues related to the interaction of the waiver provisions of the impartiality regulations and relevant paragraphs of the Pledge, are reserved for future guidance.

¹⁰ An ethics agreement is defined as "any oral or written promise by a reporting individual to undertake specific actions in order to alleviate an actual or apparent conflict of interest," such as recusal from participation in a particular matter, divestiture of a financial interest, resignation from a position, or procurement of a waiver. 5 C.F.R. § 2634.802.

ATTACHMENT 1

OGE developed the following table as a quick reference tool to highlight the main differences between paragraph 2 of the Pledge and existing impartiality regulations. It is not intended to be a substitute for thorough analysis, but we hope you find it useful.

		5 C.F.R. § 2635.502	5 C.F.R. § 2635.503	Paragraph 2 of the Pledge
Relationship:	Former Employer	Any person which the employee served, within the last year, as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee; no exclusion for governmental entities (other than Federal)	Any person which the employee served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee; no exclusion for governmental entities (other than Federal)	Two years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner; contractor and consultant omitted from list (although consultant added below under former client); is not a former employer if governmental entity
	Former Client	Clients of attorney, agent, consultant, or contractor covered same way as former employer, under 5 C.F.R. § 2635.502(b)(1)(iv)	Clients of attorney, agent, consultant, or contractor covered same way as former employer, under 5 C.F.R. § 2635.503(b)(2)	Two years prior to date of appointment served as an agent, attorney, or consultant. Is not former client if: <ul style="list-style-type: none"> • Only provided speech/similar appearance (including de minimis consulting) • Only provided contracting services other than as agent, attorney, or consultant • Served governmental entity
	Business and Personal/ Covered Relationship	In addition to former employers/ clients discussed above, includes various <u>current</u> business and personal relationships, as listed in 5 C.F.R. § 2635.502(b)(1)	No equivalent concept	No equivalent concept
Prohibition:	May not participate in particular matter involving specific parties if:	Reasonable person with knowledge of facts would question impartiality	Extraordinary payment from former employer	Includes communication by former employer or former client unless matter of general applicability or non-particular matter and open to all interested parties
Length of recusal:		1 year from the end of service	2 years from date of receipt of payment	2 years from date of appointment

Clerk of the House of Representatives
Legislative Resource Center
135 Cannon Building
Washington, DC 20515
<http://lobbyingdisclosure.house.gov>

Secretary of the Senate
Office of Public Records
232 Hart Building
Washington, DC 20510
<http://www.senate.gov/lobby>

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5) - All Filers Are Required to Complete This Page

1. Registrant Name <input checked="" type="checkbox"/> Organization/Lobbying Firm <input type="checkbox"/> Self Employed Individual King & Spalding LLP			
2. Address Address1 1700 Pennsylvania Avenue, NW, Suite 200 Address2 City Washington State DC Zip Code 20006 Country USA			
3. Principal place of business (if different than line 2) City State Zip Code Country			
4a. Contact Name Ms. Bonnie B. Byers		b. Telephone Number 2027370500	c. E-mail bbyers@kslaw.com
7. Client Name <input type="checkbox"/> Self <input type="checkbox"/> Check if client is a state or local government or instrumentality Zekelman Industries (formerly known as JMC Steel Group)			5. Senate ID# 21632-1002050
			6. House ID# 307500128

TYPE OF REPORT

8. Year 2019 Q1 (1/1 - 3/31) ☒ Q2 (4/1 - 6/30) ☐ Q3 (7/1 - 9/30) ☐ Q4 (10/1 - 12/31) ☐

9. Check if this filing amends a previously filed version of this report ☐

10. Check if this is a Termination Report ☐ Termination Date 11. No Lobbying Issue Activity ☐

INCOME OR EXPENSES - YOU MUST complete either Line 12 or Line 13

12. Lobbying INCOME relating to lobbying activities for this reporting period was: Less than \$5,000 <input type="checkbox"/> \$5,000 or more <input checked="" type="checkbox"/> \$ 90,000.00 Provide a good faith estimate, rounded to the nearest \$10,000, of all lobbying related income for the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).	13. Organizations EXPENSE relating to lobbying activities for this reporting period were: Less than \$5,000 <input type="checkbox"/> \$5,000 or more <input type="checkbox"/> \$ 14. REPORTING Check box to indicate expense accounting method. See instructions for description of options. <input type="checkbox"/> Method A. Reporting amounts using LDA definitions only <input type="checkbox"/> Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code <input type="checkbox"/> Method C. Reporting amounts under section 162(e) of the Internal Revenue Code
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LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Add additional page(s) as needed.

15. General issue area code TRD

16. Specific lobbying issues

International trade issues; China steel trade issues; World Trade Organization issues; evasion of trade remedy orders; legislation amending AD/CVD laws; Section 232 investigation on steel

17. House(s) of Congress and Federal agencies ☐ Check if None

U.S. SENATE, U.S. HOUSE OF REPRESENTATIVES

18. Name of each individual who acted as a lobbyist in this issue area

First Name	Last Name	Suffix	Covered Official Position (if applicable)	New
Bonnie B.	Byers			<input type="checkbox"/>

19. Interest of each foreign entity in the specific issues listed on line 16 above ☒ Check if None

Information Update Page - Complete ONLY where registration information has changed.

20. Client new address

Address

CityStateZip CodeCountry

21. Client new principal place of business (if different than line 20)

CityStateZip CodeCountry

22. New General description of client’s business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

First Name	Last Name	Suffix	First Name	Last Name	Suffix
1			3		
2			4		

ISSUE UPDATE

24. General lobbying issue that no longer pertains

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Internet Address:

Name	Address				Principal Place of Business (city and state or country)	
	Street Address	State/Province	Zip	Country	City	Country
	City					

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

1

2

3

FOREIGN ENTITIES

27. Add the following foreign entities:

Name	Address			Principal place of business (city and state or country)	Amount of contribution for lobbying activities	Ownership percentage in client
	Street Address					
	City	State/Province	Country			
				City State Country		%

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client or affiliated organization

1

3

5

2

4

6

CONVICTIONS DISCLOSURE

29. Have any of the lobbyists listed on this report been convicted in a Federal or State Court of an offense involving bribery, extortion, embezzlement, an illegal kickback, tax evasion, fraud, a conflict of interest, making a false statement, perjury, or money laundering?